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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NUMBER
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08/435,072 05/08/95 SOMERS

EXAMINER  
70213

DIXON, MART UNIT PAPER NUMBER

15N2/0803

MARK A MONTGOMERY  
EASTMAN CHEMICAL COMPANY  
PO BOX 511  
KINGSPORT TN 37662

15 DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

08/03/95

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made

*For restriction purposes*  
A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTC |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.             |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-20 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☐ Claims \_\_\_\_\_ are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☒ Claims 1-20 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received; ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

BEST AVAILABLE COPY

Art Unit 1513

15. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-7 are, drawn to process for making stats, classified in Class 264, subclass 13.

II. Claims 8-17 are, drawn to a propylene copolymer composition, classified in Class 428, subclass 411.1.

16. III. Claims 18-20 are, drawn to an article of manufacture, classified in Class 5, subclass 236.1+.

17. The inventions are distinct, each from the other because of the following reasons:

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as one that does not contact the extended breath and core with any surface.

18. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different

Art Unit 1513

process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as are that mixes the propylene and a comonomer together.

19. Inventions II and III are related as mutually exclusive species in intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (M.P.E.P. § 806.04(b), 3rd paragraph), and the species are patentably distinct (M.P.E.P. § 806.04(h)).

In the instant case, the intermediate product is deemed to be useful as a blend and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

20. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification restriction for examination purposes as indicated is proper.

Art Unit 1513

21. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

22. A telephone call was made to applicant's attorney, Mr. Montgomery on July 25, 1995 to request an oral election to the above restriction requirement, but did not result in an election being made.

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**Crystal Mall 1 Fax Center**

A facsimile center has been established in Crystal Mall 1, room 10D08. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 308-4227. This new location should be used in all instances when faxing any correspondence to Group 150. The existing facsimile center for the Patent Examining Corps can be used as a backup if you are unable to reach the Crystal Mall 1 center. The existing Patent Examining Fax Center telecopier numbers are (703) 308-3718 and (703) 308-3721. Use of the new Crystal Mall 1 center will facilitate rapid delivery of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

24. Any inquiry concerning this communication should be directed to Merrick Dixon at telephone number (703) 308-0013.

MDixon:evh  
July 31, 1995  
(703) 308-2351

*Merrick Dixon*  
MERRICK DIXON  
Group 1500